



FEDERAL ELECTION COMMISSION  
WASHINGTON, D.C. 20463

Taylor O. Swindle, Treasurer  
Newt 2012, Inc.  
4501 North Fairfax Drive, Suite 900  
Arlington, VA 22203

**MAY 16 2017**

RE: MUR 7134

Dear Mr. Swindle:

The Federal Election Commission ("Commission") previously notified Newt 2012 and you in your official capacity as treasurer (collectively, the "Committee") of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended (the "Act") and Commission regulations.

On May 10, 2017, based upon the information contained in the complaint and information provided by the Committee, the Commission dismissed the allegations that the Committee violated the Act and Commission regulations, pursuant to the Commission's prosecutorial discretion. *See Heckler v. Chaney*, 470 U.S. 821 (1985). Accordingly, the Commission closed its file in this matter on May 10, 2017.

The Commission encourages the Committee to review the enclosed Factual and Legal Analysis, which sets forth the statutory and regulatory provisions considered by the Commission in this matter. In particular, the Commission reminds the Committee to amend its Debt Settlement Plan to reflect that debt owed to Security Financial Enterprises, Inc. is disputed, pursuant to 11 C.F.R. § 116.1(d). For further information on the Act, please refer to the Commission's website at [www.fec.gov](http://www.fec.gov) or contact the Commission's Public Information Division at (202) 694-1100.

Documents related to this case will be placed on the public record within 30 days. *See Statement of Policy Regarding Disclosure of Closed Enforcement and Related Files*, 68 Fed. Reg. 70,426 (Dec. 18, 2003) and *Statement of Policy Regarding Placing First General Counsel's Reports on the Public Record*, 74 Fed. Reg. 66,132 (Dec. 14, 2009).

1706444414443

If you have any questions, please contact the attorney assigned to this matter, Wanda D. Brown, at (202) 694-1650.

Sincerely,  
Lisa J. Stevenson  
Acting General Counsel



BY: Jeff S. Jordan  
Assistant General Counsel  
Complaints Examination  
& Legal Administration

Enclosure:  
Factual and Legal Analysis

17044414444

FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

RESPONDENTS: Newt 2012 MUR 7134  
Taylor O. Swindle as treasurer

I. INTRODUCTION

This matter was generated by a Complaint alleging that Newt 2012 and Taylor O. Swindle in his official capacity as treasurer (the "Committee"), violated the Act by misreporting debt owed to the Committee.<sup>1</sup>

II. FACTUAL AND LEGAL ANALYSIS

The Complainant asserts that the Committee's Debt Settlement Plan, filed with the Commission, inaccurately disclosed debt owed to his company, Security Financial Enterprises, Inc. ("SFE"), for office space the Committee leased during the 2012 election cycle.<sup>2</sup> The Complainant asserts that the Committee owes \$3,815.55<sup>3</sup> rather than \$1,830.45, the amount the Committee disclosed.<sup>4</sup> Further, the Complainant suggests that the Committee should have reported the debt as disputed if it thought it owed the lower amount.<sup>5</sup> The Complainant also states he would like full payment.<sup>6</sup>

The Committee asserts that its debt reporting is accurate, the Complainant's company improperly assessed late fees, and the Complainant is improperly using the enforcement process

<sup>1</sup> Compl. At 2 (June 13, 2016).

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*; see also Compl. Ex. E. Complainant states that the amount owed is \$2,430.45, the remaining balance for the lease, plus \$1,385 accrued interest, for a total of \$3,815.55.

<sup>4</sup> *Id.* See also FEC Form 8, Debt Settlement Plan, <http://docquery.fec.gov/pdf/846/201608020300092846/201608020300092846.pdf> (Aug. 1, 2016).

<sup>5</sup> *Id.*

<sup>6</sup> *Id.*

1 to collect a commercial debt.<sup>7</sup> The Committee offers to amend its Debt Settlement Plan to  
2 indicate that the debt is disputed, and states that it will continue to discuss the dispute with SFE  
3 outside of the Commission's enforcement process.<sup>8</sup>

4 Committee treasurers are required to file reports of receipts and disbursements in  
5 accordance with the provisions of the Act.<sup>9</sup> The reports must include the amount and nature of  
6 outstanding debts and obligations owed by or to the political committee.<sup>10</sup> Further, the  
7 Commission's regulations specify that a debt or obligation exceeding \$500 must be disclosed in  
8 the report that covers the date on which the debt or obligation is incurred.<sup>11</sup> Debts and  
9 obligations shall be continuously reported until extinguished, and shall also include a statement  
10 explaining the circumstances under which each debt and obligation was incurred or  
11 extinguished.<sup>12</sup> A Committee shall also report a disputed debt<sup>13</sup> if the creditor has provided  
12 something of value to the political committee.<sup>14</sup> Until the dispute is resolved, the committee

---

<sup>7</sup> Resp. at 5-6. In addition to the interest charge, the Committee disputes \$600 in payments that the Complainant does not acknowledge.

<sup>8</sup> *Id.* at 5.

<sup>9</sup> 52 U.S.C. § 30104(a)(1), 11 C.F.R. § 104.1(a).

<sup>10</sup> 52 U.S.C. § 30104(b)(8); 11 C.F.R. § 104.3(d).

<sup>11</sup> 11 C.F.R. § 104.3(d).

<sup>12</sup> See 11 C.F.R. § 104.11(b).

<sup>13</sup> A debt is disputed where there is an actual or potential debt or obligation owed by a political committee, including an obligation arising from a written contract, promise or agreement to make an expenditure, where there is a bona fide disagreement between the creditor and the political committee as to the existence or amount of the obligation owed by the political committee. 11 C.F.R. § 116.1(d).

<sup>14</sup> 11 C.F.R. § 116.10(a).

1 shall disclose on the appropriate reports any amounts paid to the creditor, any amount the  
2 political committee admits it owes, and the amount the creditor claims is owed.”<sup>15</sup>

3 The Committee concedes that it owes SFE money, but the Committee and SFE disagree  
4 as to the amount. Since 2012, the Committee has disclosed the debt in its disclosure reports.<sup>16</sup>  
5 In its FEC Form 8, Debt Settlement Plan, the Committee discloses \$1,830.45 owed to SFE, but  
6 does not indicate that SFE disputes the amount. The Committee volunteers to amend its Plan to  
7 indicate that the debt is disputed, although it has not yet done so.

8 In light of the Committee’s decision to report the debt as disputed, the *de minimis* nature  
9 of the alleged reporting violation, and in furtherance of the Commission’s priorities, relative to  
10 other matters pending on the Enforcement docket, the Commission exercised its prosecutorial  
11 discretion and dismissed this matter.<sup>17</sup> The Commission also reminds the Committee to amend  
12 its Debt Settlement Plan to show the debt at issue as disputed.

---

<sup>15</sup> *Id.*

<sup>16</sup> Although the invoice attached to the Complaint is dated March 1, 2012, the debt was first disclosed in the Committee’s 2012 October Quarterly report (Page 144). The Committee consistently included the debt in its disclosure reports filed after that date. <http://docquery.fec.gov/pdf/964/12972602964/12972602964.pdf>.

<sup>17</sup> *Heckler v. Chaney*, 470 U.S. 821 (1985).

17044414447